

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

STEVEN G. MILLETT,  
MELODY J. MILLETT, On Behalf Of Themselves  
and All Others Similarly Situated,

Plaintiffs,

v.

TRUELINK, INC., a Trans Union Company,

Defendant.

C.A. No. 05-599 (SLR)

Putative Class Action

**DEFENDANT'S MOTION TO DISMISS  
COUNTS I, II, III, AND V OF THE SECOND AMENDED COMPLAINT  
OR FOR MORE DEFINITE STATEMENT**

Defendant TrueLink, Inc. ("TrueLink"), hereby move this Honorable Court for an order dismissing Counts I, II, III, and V of the Second Amended Complaint ("SAC"), or, alternatively to require plaintiffs to make a more definite statement. TrueLink's Motion is brought pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(e), and upon the grounds stated below and those more fully set forth in Defendant's Brief In Support Of Motion To Dismiss Counts I, II, III, and V Of The Second Amended Complaint, Or Alternatively, For More Definite Statement.

1. Plaintiffs are husband and wife, both residents of Kansas. In their SAC, plaintiffs allege that TrueLink violated state and federal statutes by making false, misleading, or otherwise unlawful representations concerning products or services offered by TrueLink and purchased by plaintiffs. Plaintiffs also allege that TrueLink breached its contract by failing to provide the products or services as promised.

2. Upon these allegations, plaintiffs assert five claims against TrueLink: violation of the Delaware Consumer Fraud Act ("DCFA") (Count I), violation of the Delaware

Consumer Contracts Act (Count II), breach of contract (Count III), violation of the federal Credit Repair Organizations Act (“CROA”) (Count IV), and violation of the federal Fair Credit Reporting Act (“FCRA”) (Count V).

3. The DCFA claim alleged in Count I should be dismissed for failure to plead a claim upon which relief may be granted. The DCFA declares unlawful deceptive or unfair merchandising practices in the conduct of trade or commerce occurring in part or wholly within the State of Delaware, and authorizes private causes of action only to persons who are victims of such unlawful conduct. Plaintiffs fail to allege any facts to suggest that they have a claim under the DCFA because none of the conduct related to plaintiffs is alleged to have occurred in whole or in part in Delaware. Accordingly, Count I should be dismissed.

4. Count V fails to state a claim for violation of the FCRA, specifically, 15 U.S.C. § 1681e(b), because plaintiffs failed to identify any inaccuracy in their consumer credit reports that resulted from TrueLink’s alleged failure to follow reasonable procedures to assure maximum possible accuracy of information in plaintiffs’ consumer credit reports. Accordingly, Count V should be dismissed.

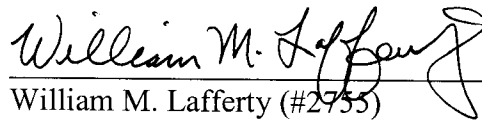
5. In addition, as pled, it appears that Counts II, III, and V are barred by the applicable statutes of limitation. Accordingly, each of these claims should be dismissed. In the alternative, and to the extent that the claims are not subject to dismissal on other grounds, plaintiffs should be ordered to make more definite statements with regard to allegations concerning when the plaintiffs’ transactions with TrueLink occurred.

**WHEREFORE**, defendant TrueLink, Inc. respectfully requests the Court enter an Order:

- a. dismissing Count I of the SAC in its entirety;

- b. dismissing Count V of the SAC in its entirety;
- c. dismissing Counts II, III, and V as barred by the statutes of limitation, or, in the alternative, requiring plaintiffs to amend the SAC to make more definite statements; and
- d. such other and further relief this Court may deem proper.

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January 13, 2006

CERTIFICATE OF SERVICE

I, William M. Lafferty, hereby certify that on January 13, 2006 I electronically filed the foregoing DEFENDANT'S MOTION TO DISMISS COUNTS I, II, III, AND V OF THE SECOND AMENDED COMPLAINT OR FOR MORE DEFINITE STATEMENT, with the Clerk of Court using CM/ECF, which will send notification of such filing(s) to the following:

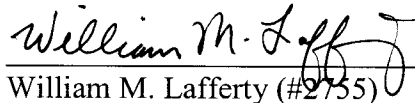
Christopher J. Curtin, Esquire  
Erisman & Curtin  
629 Mount Lebanon Road  
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Wilmington, DE 19899

I also certify that copies were caused to be served on January 13th, 2006 upon the following in the manner indicated:

**BY HAND:**

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January 13, 2006